

**MINUTES OF THE KENT COUNTY LEVY COURT  
REGULAR BUSINESS MEETING  
KENT COUNTY ADMINISTRATIVE COMPLEX  
555 BAY ROAD, DOVER, DE  
LEVY COURT CHAMBER, ROOM 203  
Tuesday, May 11, 2010**

**Call to Order**

The Regular Business meeting of the Kent County Levy Court was called to order at 7:00 P.M. by President Banta.

**Invocation & Pledge of Allegiance**

The Invocation was led by Mr. Ennis and the Pledge of Allegiance was led by Mr. Eaby.

**Moment of Silence for our Troops**

A moment of silence was observed for our Troops led by Mr. Sweeney.

**Roll Call and Determination of Quorum**

Allan F. Angel	Vice President
P. Brooks Banta	President
Harold K. Brode	Commissioner
Eric L. Buckson	Commissioner
Brad S. Eaby	Commissioner
Richard E. Ennis	Commissioner
George W. Sweeney, Sr.	Commissioner

There are seven (7) Commissioners present.

### **Additions/Deletions to Agenda**

Mr. Buckson removed Ordinance LC10-02 and added Ordinance LC10-04.

### **Adoption of the Agenda**

**M-107-10 Motion** was made by Mr. Angel, seconded by Mr. Brode and carried by Roll Call vote 7 yeas to adopt the Agenda as amended.

### **Consent Agenda 10-09**

Items on the agenda were discussed in committee. They are considered routine and non-controversial and will be acted upon by a single roll call vote of the Levy Court. There will be no separate discussion of these items unless a Commissioner so requests, in which event the item shall be removed from the Consent Agenda and considered separately.

*Items from May 4, 2010 Committee Meetings:*

- Civil Air Terminal Expansion – Kent County AeroPark Reimbursement Resolution
- Funding Authorizations – Public Works Capital Projects – revised memo
- Bid Award – FY2010 Vacuum Truck Purchase
- Permanent Emergency Line Repair L&D Suzuki Purchase Order – TDW Services, Inc.
- Wastewater Treatment Facility – Photo Voltaic (PV) Solar Panel System Project; Change Order No. 1 to Carr & Duff Contract & Stand Alone Work Order No. 1 for Future Expansion
- Long Term Natural Gas Purchase Plan Agreement Extension – Hess Energy
- Wastewater Treatment Facility – Ultra Violet Disinfection System Project Liner Modification – North & South Aeration Basins
- Kesselring Farm Acquisition

**M-108-10 Motion** was made by Mr. Brode, seconded by Mr. Sweeney.

Mr. Buckson had a concern in regards to the extension of sewer in the Pickering Beach area. He wished to clarify what they were approving. I took comfort in the fact we were going to make a decision as to whether or not individuals could decline. I am still not sure if we have that decision. I do not want to see a majority vote in favor and then those not in favor be forced into doing it. Are we making a decision tonight on that – what are we doing tonight to make sure that is not the decision I am making?

Mr. Banta said he did not see this item on the Consent Agenda.

Mr. Buckson said it was part of the package which speaks to (unless it has been removed) Capital Projects for Public Works. Is it revised meaning it has been pulled or is it still on there. I just want to be sure I understand – I am very concerned, and I know Commissioner Angel is also, that we are not making a decision tonight that if there is a majority of individuals that want it, those opposed have to take it. I am concerned; it is cost prohibitive.

Mr. Angel said he, Hans Medlarz and two officers from Pickering Beach met on Friday. They were told they could withdraw ninety (90) days after the application is submitted. There are only about 8 to 10 people who live there full time. The people are spread out everywhere. They are trying to contact all of them. Mr. Medlarz said they would move forward and they could pull out if they so desire. We have talked to Senator Ennis about USDA funds to buy down the cost.

Mr. Brode asked Mr. Buckson if he desired to table this until Mr. Medlarz returns or are you OK to go with it?

My vote, said Mr. Buckson, is to make sure tonight I am not forcing seven people who have no way of paying for this to be forced to pay for it or have liens placed against their house. This is Commissioner Angel's district; he knows the people; I want to make the vote as a matter of record because of some experience I had dealing with this a couple of years ago when I did not ask this question. I want to be sure tonight, on the record that those individuals have the ability to protect themselves, not get involved, if the financing or the numbers don't work for them.

It appears as though, from what Mr. Angel said, there is a ninety day period in which they can withdraw and that does provide a safeguard measure for them. Am I correct, asked Mr. Banta?

That is my understanding, answered Mr. Angel.

They are secure, said Mr. Banta.

Roll Call on the motion to approve Consent Agenda 10-09 as presented was carried with a vote of 7 yeas.

#### **Approval of Regular Business Meeting Minutes of Tuesday, April 27, 2010**

**M-109-10 Motion** was made by Mr. Angel and seconded by Mr. Brode to approve the Regular Business Meeting Minutes of Tuesday, April 27, 2010.

Mr. Angel said he read a statement just before he voted on the budget last time and it just says "statement read by Commissioner Angel". I would like to have it as part of the record for why I voted for that budget. It is very instrumental in why I said that and would like it added back to the minutes.

Mr. Banta asked Ms. Wootten if she would take care of that.

Roll Call on the motion to approve the 4/27 minutes reveals 7 yeas, with Mr. Angel's revision.

## **PRESENTATIONS**

### **1. Employee of the Month**

Employee for the month of May, says Mr. Banta. I think she was air lifted in from BayHealth and she has now arrived I think. We are ready to go.

The Memo naming Melissa J. Smith from the Dept. of Public Safety as the May 2010 Employee of the Month was read into the record by Ms. Tanaka. Melissa is a Paramedic I in the Div. of Emergency Medical Services and has worked for Kent County since September 2007. In addition she serves on the reconvened State Protocol Committee and worked diligently at the State level to improve and fine tune the State-wide protocols. On the County level, she and her committee have worked diligently to evaluate the paramedic equipment bags in an effort to achieve higher efficiency and less weight. Melissa possesses excellent medic skills and is dedicated to making the ALS system better for everyone in Kent County. Congratulations, Melissa. She resides in Commissioner Angel's and Ennis' districts.

Mr. Banta, Mr. Angel and Mr. Ennis went forward for the presentation. Mr. Banta told Melissa he had good news and bad news. The bad news is there are 20 municipalities in Kent County representing about 135 to 140 elected officials. Beyond those there are 160,000 residents who appreciate and respect the job you and your fellow paramedics do. What I really want you to know is one of these 135 elected officials, a city councilman, actually doesn't appreciate the job you do and he has a problem paying forty-six cents a day in County taxes for your services. On behalf of him I apologize. These Commissioners in back of you and your staff and everybody in Kent County respects your effortless job you do. You are very professional but one city elected official does not respect or appreciate the job you do and he doesn't appreciate paying forty-six cents a day for the job you do but we do. God love you; we appreciate what you do. He said he was present at Student Government Day and appreciated what she presented to those young people as to what paramedic life is all about. He quoted her as saying to the students "I just love the job I do and there is no other job I would

rather do and no other place I would rather work. I really love what I do.” I think that is what you said and it impressed me so much I have told many people about it. Afterwards, some of the guys asked how you made out. I told them that on a scale of 1 to 10 I gave you a 14. You did a great job. Mr. Banta presented her with the tribute. He said she was a fine young lady; exemplifies County Government at its best; except for one elected official who doesn’t have any respect for us.

Mr. Angel and Mr. Ennis also made a few comments and thanked her for a job well done.

Melissa was amazed and surprised and appreciated the fact that she was Employee of the Month after only a little over two years of working for the County.

Mr. Banta presented her with a County pin on behalf of Commissioner Brode. God bless all of you; you do a great job. And for the person that don’t want to pay forty-eight cents for your care, maybe he will just die. So we have great days in Levy Court; this is one of them. We are so pleased and happy to have Melissa here and I know she is on a busy schedule. Like I said, they air lifted her from BayHealth to our roof and she got down here and that worked out very well.

Mr. Eaby congratulated Melissa who used to be his neighbor about two houses down and through some of his guidance she has become the great paramedic she is today. He then wished to clarify the motion for Pickering Beach. The previous motion at Committee provided that there would be funding for Pickering Beach and the revised motion has taken out the application for grant funding for Pickering Beach.

## **INTRODUCTIONS**

Chief Faulkner introduced Michael Carunchio. He was hired as a Paramedic II in the Dept. of Public Safety on May 3, 2010. Prior to coming to Kent County he was a Paramedic with Sussex County. He and his wife reside in Commissioner Banta’s and Ennis’ districts.

### **7:15 P.M., PUBLIC HEARINGS**

#### **Mr. Buckson:**

1. **Ordinance LC10-13, RE: Weeds and Plant Growth: An Ordinance to amend Kent County Code, Vol. I, Chapter 175, Property Maintenance, §175-1 Weeds and Plant Growth to revise the fees for County remediation of weeds and plant growth violations**

Ms. Keifer gave a brief summary. This is a revision of the weeds and plant growth provisions of the Kent County Code. The amendment reflects the changes

in how we determine the price for grass cutting. Right now it is a flat fee of \$75. We are proposing that the fee will be what is determined each year when we bid it out. This year we got the bids in and the price has been determined to be \$60 per hour for grass cutting only and \$70 per hour for grass cutting and debris removal. It also increases the administrative fee, in cases where we have to cut the grass, from \$25 to \$50.

**Public Hearing is Open on Ordinance LC10-13**

**IN FAVOR**

None

**IN OPPOSITION**

None

**Public Hearing is Closed on Ordinance LC10-13**

**M-110-10** Mr. Buckson **moved** to adopt Ordinance LC10-13 Weeds and Plant Growth to become effective immediately; seconded by Mr. Angel.

Roll Call:

Mr. Angel – yes

Mr. Brode – yes, something that is needed; we needed to increase the price

Mr. Buckson – yes, no public opposition; the fact this program is specific to increase the cost to manage a program that is specific to cutting grass for property owners who are not doing so and then requiring the County to expend funds to do so; it pays for the program

Mr. Eaby – yes, reasons stated; it will pass the cost on to the homeowner who is the offender in the process and move it away from those that are cutting their grass – the other taxpayers.

Mr. Ennis – yes, reasons stated

Mr. Sweeney – yes, reasons stated

Mr. Banta – yes, reasons stated

Roll Call reveals 7 affirmative votes.

## CLOSE PUBLIC HEARINGS

### OLD BUSINESS

None

### NEW BUSINESS

#### Mr. Angel:

1. Action Item from May 5, 2010 Administration Committee: Request for change from 35 to 40 hours a week for General Administration Hourly Paid Personnel

Mr. Kujala explains this proposal will increase the hours worked per week for the three employees in the Administrative Dept. from 35 to 40. This will be effective July 1 and the estimated cost is about \$13,000 for wages and benefits.

Mr. Eaby reviewed the hourly rates the employees could have – the lowest and highest. Are they at the lowest, highest or somewhere in the middle?

Mr. Kujala said the two clerks are probably the two lowest paid employees in the County.

Besides that, said Mr. Eaby, within the hourly rate, are they at the lowest or highest end of that rate?

They are at the beginning of the range, said Mr. Kujala.

Mr. Banta stated he has thought about this for some time. Since we have had a loss of an employee in the administrative office the work continues and many days it is challenging. When people are on vacation or ill the ladies in the mail room come up and fill the positions. I think it is fitting and proper that they be remunerated in the manner that is being presented tonight. I will be supporting the recommendation.

**M-111-10** Mr. Angel made a **motion** to increase the standard total work week hours for hourly employees in the Levy Court Administration Department from the current 35 hours per week to 40 hours per week to become effective July 1, 2010; seconded by Mr. Brode; carried by Roll Call vote 5 yeas (Angel, Brode, Ennis, Sweeney, Banta), 2 nays (Buckson - stated he was firmly opposed. I have stated it in the past; I want to be sure I am clear – I am opposed to this because of the fact it is not based on a need but more importantly based on about fairness. If you want to be fair then we should create an equal playing field that speaks to the

amount of hours and work required, not a desire to benefit someone, 'cause I do. Without a recommendation from the Personnel Director, Finance Director, Administrator in charge, I don't think we should have any business making this decision so my vote is no; Eaby – before I vote, this has been a difficult decision, really, in the scheme of things as big as many, but, to be consistent with my prior position you know I put the Clerk of the Peace to the task in supporting her request and requested a lot of information and back-up to support that and I think any time you increase hours it needs to be supported and it's not just based on fairness. There are a lot of things that are not fair; that in and of itself could not be reason for me to support it. Now, having said that I do see the need for increased hours for the individual that is directly affected by it who is in the administrative offices who is picking up additional work as a result of the retirement of Jan Morris so I am convinced that the need is there for that individual but I have not been convinced that the need is there for the two individuals in the mail room so I cannot support it for those two individuals so based on the way the motion is presented I would have to vote no).

**Mr. Ennis:**

1. **Introduction of Resolution 3093**, A resolution confirming Resolution 2514 adopted by Kent County on March 8, 2005 which approved an extension to the Kent County Sewer Disposal District No. 1 to provide wastewater disposal services to the Kitts Hummock Area for action on Tuesday, May 25, 2010

Mr. Ennis read the Resolution into the minutes as Introduction.

2. **Resolution 3091**, A resolution calling a public hearing upon a proposal to extend Kent County Sewage Disposal District No. 1 (Kitts Hummock Area – Additional Properties)

**M-112-10** This was read into the minutes by Mr. Ennis as a **motion** for Public hearing on Tuesday, May 25, 2010; seconded by Mr. Angel; carried by Roll Call vote 7 yeas.

3. **Introduction of Resolution 3092**, A resolution upon a proposal to extend Kent County Sewage Disposal District No. 1 pursuant to Section 4606, Chapter 46, Title 9 of the Delaware Code, as amended (Kitts Hummock Area – Additional Properties) for public hearing on Tuesday, May 25, 2010 at 7:15pm

This Introduction was also read into the minutes by Mr. Ennis.

**Mr. Buckson:**

1. **Introduction of Ordinance LC10-16**, An Ordinance to amend the Comprehensive Plan Map Designation and the Official Zoning Map of

Kent County, Delaware pursuant to the provisions of Kent County Code, Vol. II, Chapter 205 Zoning, Article III, Section 205-8 and Section 205-9, and Article XXVIII (changes and amendments) effective December 01, 2000, as amended (ref: CZ-10-04)

Mr. Buckson read this Ordinance into the minutes for Introduction. The public hearing date is to be determined.

2. **Reintroduce Ordinance LC10-02, Building Permit Fee Surcharge (APFO Compliance and Nonresidential Construction) - An Ordinance to amend Kent County Code, Vol. I, Chapter 105 Subdivision Building construction, as amended, Article III Building Permit Fee Surcharge, § 105-6. Surcharge established; applicability to reduce amount of the education surcharge for nonresidential construction and eliminate the surcharge for residential construction for which a mitigation payment has been made pursuant to the Adequate Public Facilities Ordinance (schools) - for Public Hearing on Tuesday, May 25, 2010 at 7:15 PM Note: This Ordinance was originally introduced on 2/23/10.**

This item was removed and replaced with the following:

**Ordinance LC10-04** An Ordinance to amend the Official Zoning Map of Kent County, Delaware pursuant to the provisions of Kent County Code, Vol. II, Chapter 205 Zoning, Article III, Section 205-8 and Section 205-9, and Article XXVIII (changes and amendments) effective December 01, 2000, as amended.

This was read into the minutes by Mr. Buckson for public hearing on June 29, 2010 at 7:15 P.M.

3. **Reintroduce Ordinance LC10-05, An Ordinance to amend the Comprehensive Plan Map Designation and the Official Zoning Map of Kent County, Delaware pursuant to the provisions of Kent County Code, Vol. II, Chapter 205 Zoning, Article III, Section 205-8 and Section 205-9, and Article XXVIII (changes and amendments) effective December 01, 2000, as amended (ref: CZ-10-02, Lakeland Park, Inc., Andrew Strine) Public Hearing date to be determined. Note: This Ordinance was originally introduced on 2/23/10.**

This, too, was read into the minutes by Mr. Buckson.

#### **OTHER BUSINESS**

1. Vote to go into Executive Session immediately following the Business

Meeting for preliminary discussion on site acquisition for a publicly funded capital improvement; legal strategy session regarding collective bargaining or pending or potential litigation; and personnel matters pursuant to 29 Del.C. 10004(b)(2), (4), and (9)

**M-113-10** Mr. Eaby **moved** to go into Executive Session immediately following the Business Meeting for preliminary discussion on site acquisition for a publicly funded capital improvement; legal strategy session regarding collective bargaining or pending or potential litigation; and personnel matters pursuant to 29 Del.C. 10004(b)(2), (4), and (9); seconded by Mr. Sweeney; carried by Roll Call vote 7 yeas.

2. Vote to have Executive Session following the Committee Meetings on May 18, 2010 pursuant to 29 Del.C. 10004(b)(2), (4), and (9); for preliminary discussion on site acquisition for a publicly funded capital improvement; Legal Strategy Session regarding collective bargaining or pending or potential litigation; and personnel matters

**M-114-10** **Motion** was made by Mr. Eaby to have Executive Session following the Committee Meetings on May 18, 2010 pursuant to 29 Del.C. 10004(b)(2), (4), and (9); for preliminary discussion on site acquisition for a publicly funded capital improvement; Legal Strategy Session regarding collective bargaining or pending or potential litigation; and personnel matters; seconded by Mr. Angel; carried by Roll Call vote 7 yeas.

#### **INFORMATION ITEMS**

None

#### **PUBLIC COMMENTS**

None

#### **COMMISSIONERS' COMMENTS**

Mr. Buckson wanted to clarify a couple of things for public record. He does not have a problem with looking at concerns the Administrative Office made in regards to the low pay grade that some of the individuals are currently placed at. That has some logic to it. It is something I do not want to give the impression to that department that I wouldn't be considering. I just think that if you are going to make changes to hours it has to reflect the required work load. Personally, based on what I have seen in the budget, the numbers there and the current way the County got to the forty hours I believe there is serious consideration that should be given to moving back to 35 or 37 ½ hours. I think that is an absolute

consideration that should be made, something I would support. I don't have all the answers; I certainly don't want to see pay cuts so I would have to see how you could do that and make sure the workers are duly compensated. You will cut hours but will ask for more in a shorter amount of time so I don't look at it as you are paying them more for less. I think you will just ask them to do a little more in the time frame they are and that is how you justify the increase if you had to make up the loss through the savings. Just want to be clear on that because I don't want anyone to think I am opposed to fair pay; that is not the issue here. Thanks.

**ADJOURN**

**M-115-10 Motion** was made by Mr. Brode, seconded by Mr. Angel and Mr. Eaby and carried by Roll Call vote 7 yeas to move into Executive Session and not return.  
7:41 P.M.



Loretta L. Wootten  
Kent County Clerk of the Peace

29 Del.C. §10004(e)(2). The Agenda items as listed may not be considered in sequence. This Agenda is subject to change to include additional items including Executive Sessions or the deletion of items including Executive Sessions, which arise at the time of the meeting.